

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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X : In re REFCO, INC. SECURITIES LITIGATION :  
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: Case No. 07-MD-1902 (GEL)

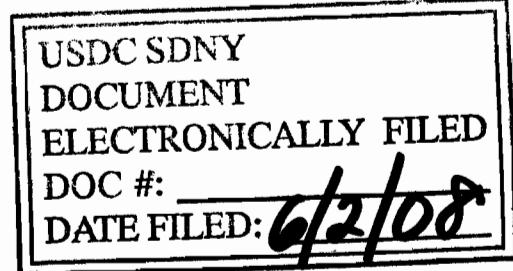
This Document Relates To:

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X : KENNETH M. KRYS and CHRISTOPHER STRIDE, as JOINT OFFICIAL LIQUIDATORS of SPHINX LTD., SPHINX STRATEGY FUND LTD.;  
SPHINX PLUS SPC LTD., SPHINX DISTRESSED LTD., SPHINX MERGER ARBITRAGE LTD.; SPHINX SPECIAL SITUATIONS LTD., SPHINX MACRO LTD.; SPHINX LONG/SHORT EQUITY LTD.; SPHINX MANAGED FUTURES LTD.; SPHINX EQUITY MARKET NEUTRAL LTD.; SPHINX CONVERTIBLE ARBITRAGE LTD.; SPHINX FIXED INCOME ARBITRAGE LTD.; SPHINX DISTRESSED FUND SPC; SPHINX MERGER ARBITRAGE FUND SPC; SPHINX SPECIAL SITUATIONS FUND SPC; SPHINX MACRO FUND SPC; SPHINX LONG/SHORT EQUITY FUND SPC; SPHINX MANAGED FUTURES FUND SPC; SPHINX EQUITY MARKET NEUTRAL FUND SPC; SPHINX CONVERTIBLE ARBITRAGE FUND SPC; SPHINX FIXED INCOME ARBITRAGE FUND SPC; PLUSFUNDS MANAGED ACCESS FUND SPC LTD.; KENNETH M. KRYS and CHRISTOPHER STRIDE as assignees of claims assigned by MIAMI CHILDREN'S HOSPITAL FOUNDATION, OFI, GREEN & SMITH INVESTMENT MANAGEMENT LLC, THALES FUND MANAGEMENT LLC, KELLNER DILEO & CO., LLC, MARTINGALE ASSET MANAGEMENT LP, LONGACRE FUND MANAGEMENT LLC, ARNHOLD & S. BLEICHROEDER ADVISERS LLC, PICTET & CIE, RGA AMERICA REINSURANCE COMPANY, DEUTSCHE BANK (SUISSE) SA, ARAB MONETARY FUND, HANSARD INTERNATIONAL LTD., CONCORDIA  
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: Case No. 08-cv-3065 (GEL)

: Case No. 08-cv-3086 (GEL)

**STIPULATION AND ORDER**



ADVISORS LLC, GABELLI SECURITIES, INC.,  
CITCO GLOBAL CUSTODY; and JAMES  
P. SINCLAIR as Trustee of the SPHINX TRUST,

Plaintiffs,

-against-

CHRISTOPHER SUGRUE; MARK  
KAVANAGH; BRIAN OWENS;  
PRICEWATERHOUSECOOPERS L.L.P.; MARI  
FERRIS; PRICEWATERHOUSECOOPERS  
CAYMAN ISLANDS; GIBSON, DUNN &  
CRUTCHER LLP; REFCO ALTERNATIVE  
INVESTMENTS LLC; GRANT THORNTON  
LLP; MARK RAMLER; ERNST & YOUNG U.S.  
LLP; MAYER BROWN LLP f/k/a MAYER  
BROWN ROWE & MAW LLP; JOSEPH  
COLLINS; EDWARD S. BEST; PAUL KOURY;  
PHILLIP R. BENNETT; ROBERT C. TROSTEN;  
TONE GRANT; SANTO MAGGIO; THOMAS  
HACKL; DENNIS KLEJNA; BAWAG P.S.K.  
BANK FUR ARBEIT UND WIRTSCHAFT UND  
OSTERREICHISCHE POSTPARKASSE  
AKTIENGESELLSCHAFT; JP MORGAN  
CHASE & CO.;  
CREDIT SUISSE SECURITIES  
(USA) LLC f/k/a CREDIT SUISSE FIRST  
BOSTON LLC; BANC OF AMERICA  
SECURITIES LLC; THOMAS H. LEE  
PARTNERS, L.P.; THOMAS H. LEE  
ADVISORS, LLC; THL MANAGERS V, LLC;  
THL EQUITY ADVISORS V, L.P.; THOMAS H.  
LEE EQUITY FUND V, L.P.; THOMAS H. LEE  
PARALLEL FUND V, L.P.; THOMAS H. LEE  
EQUITY (CAYMAN) FUND V, L.P.; THOMAS  
H. LEE INVESTORS LIMITED PARTNERSHIP;  
1997 THOMAS H. LEE NOMINEE TRUST;  
THOMAS H. LEE; DAVID V. HARKINS;  
SCOTT L. JAECKEL; SCOTT A. SCHOPEN;  
WILLIAM T. PIGOTT; LIBERTY CORNER  
CAPITAL STRATEGIES, LLC; EMF  
FINANCIAL PRODUCTS LLC; EMF CORE  
FUND LTD.; DELTA FLYER FUND LLC; ERIC  
M. FLANAGAN; INGRAM MICRO, INC.; CIM  
VENTURES, INC.; BECKENHAM TRADING  
CO., INC.; ANDREW KRIEGER; COAST

|                                    |   |
|------------------------------------|---|
| ASSET MANAGEMENT, LLC, f/k/a COAST | : |
| ASSET MANAGEMENT LP; CS LAND       | : |
| MANAGEMENT LLC; CHRISTOPHER        | : |
| PETTIT; and REFCO GROUP HOLDINGS,  | : |
| INC.; and REFCO ASSOCIATES, INC.,  | : |
| Defendants.                        | : |

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**WHEREAS**, plaintiffs Kenneth M. Krys and Christopher Stride, as Joint Official Liquidators of SPhinX, Ltd., SPhinX Macro Fund SPC, SPhinX Macro, Ltd., SPhinX Managed Futures Fund SPC, SPhinX Long/Short Equity Fund SPC, SPhinX Convertible Arbitrage Fund SPC, SPhinX Fixed Income Arbitrage Fund SPC, SPhinX Distressed Fund SPC, SPhinX Merger Arbitrage Fund SPC, SPhinX Special Situations Fund SPC, SPhinX Equity Market Neutral Fund SPC, SPhinX Strategy Fund, Ltd., SPhinX Plus SPC, Ltd., SPhinX Managed Futures, Ltd., SPhinX Long/Short Equity, Ltd., SPhinX Convertible Arbitrage, Ltd., SPhinX Fixed Income Arbitrage, Ltd., SPhinX Distressed, Ltd., SPhinX Merger Arbitrage, Ltd., SPhinX Special Situations, Ltd., SPhinX Equity Market Neutral, Ltd., and PlusFunds Managed Access Fund SPC, Ltd., Kenneth M. Krys and Christopher Stride, as assignees of claims assigned by Miami Children's Hospital Foundation, OFI, Green & Smith Investment Management LLC, Thales Fund Management LLC, Kellner Dileo & Co., LLC, Martingale Asset Management LP, Longacre Fund Management LLC, Arnhold & S. Bleichroeder Advisers LLC, PicTet & Cie, RGA America Reinsurance Company, Deutsche Bank (Suisse) SA, Arab Monetary Fund, Hansard International Ltd., Concordia Advisors LLC, Gabelli Securities, Inc., Citco Global Custody, and James P. Sinclair, as Trustee of the SPhinX Trust

(collectively, "Plaintiffs"), commenced this action in the Supreme Court of the State of New York, New York County, on March 5, 2008 (the "Action");

**WHEREAS**, the Action was removed to the United States District Court for the Southern District of New York on March 26, 2008 and assigned to United States District Judge Gerard E. Lynch as a related case pursuant to Notices of Assignment dated April 8, 2008;

**WHEREAS**, a deposition protocol (the "Deposition Protocol") and a confidentiality order (the "Confidentiality Order") have been approved by the Court and are in effect in the Refco MDL, *In Re: Refco Securities Litigation*, 07-MD-1902 (GEL) (the "MDL");

**IT IS HEREBY STIPULATED AND AGREED**, by and between Plaintiffs and the undersigned parties, who or which are parties to the Action or other actions that are part of the MDL, through their attorneys, as follows:

1. Plaintiffs reserve all rights to seek remand and/or abstention in the Action, and to oppose the Motion to Refer filed in the Action by defendant Bank für Arbeit und Wirtschaft und Österreichische Postsparkasse Aktiengesellschaft ("BAWAG"), and BAWAG retains all rights to seek referral to the Bankruptcy Court through the Motion to Refer, and this Stipulation and Order is without prejudice to such rights;

2. Without prejudice to this reservation of rights and subject to any subsequent order of the Court, Plaintiffs hereby agree to be parties to the Deposition Protocol and are permitted all rights provided thereunder, it being expressly understood that, by entering into this Stipulation, Plaintiffs do not waive, and expressly reserve, the right to seek relief from the terms of the Deposition Protocol, including, without limitation, an application for relief in the event that Plaintiffs believe that the deposition

process under the Deposition Protocol has not provided full and adequate deposition discovery to Plaintiffs relating to the matters raised in Plaintiffs' complaint herein, or in any amended version thereof;

3. Without prejudice to this reservation of rights, and subject to any subsequent order of the Court, Plaintiffs hereby agree to be parties to the Confidentiality Order and are permitted all rights provided thereunder;

4. The Action is deemed a "Related Action" for purposes of the Confidentiality Order;

5. As parties to the Confidentiality Order, Plaintiffs shall be entitled to receive from each producing party all materials produced, or previously produced, by such party in any action subject to the Deposition Protocol; and

6. Plaintiffs reserve the right to seek modification of the restrictions on disclosure included in the Confidentiality Order at paragraph 10, as provided for in paragraph 32 of the Confidentiality Order, to the extent that materials obtained by Plaintiffs are necessary or useful in related matters or litigations, including any proceedings before a court of the Cayman Islands.

7. Nothing contained herein shall waive or act to limit any of Plaintiffs' or Defendants' rights under the Deposition Protocol and Confidentiality Order, all of which are expressly reserved.

8. Defendants reserve any and all rights to oppose any relief sought by Plaintiffs pursuant to Paragraphs 1, 2, and 6 of this Order.

DONE AND ORDERED  
this 2<sup>nd</sup> day of ~~May~~, 2008

June  
Gerard E. Lynch  
Honorable Gerard E. Lynch  
United States District Judge

**Consented and Agreed to by:**

  
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DONE AND ORDERED  
this \_\_\_\_ day of May, 2008

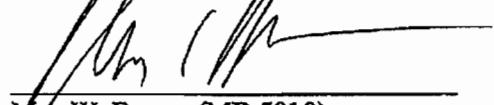
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Honorable Gerard E. Lynch  
United States District Judge

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Trustee of the Refco Litigation Trust  
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DONE AND ORDERED  
this \_\_\_\_ day of May, 2008

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Honorable Gerard E. Lynch  
United States District Judge

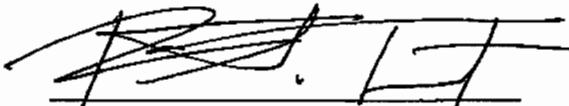
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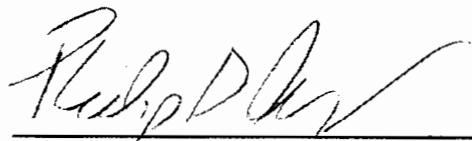
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*Prospective Class*

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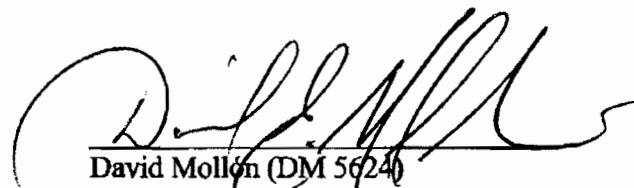
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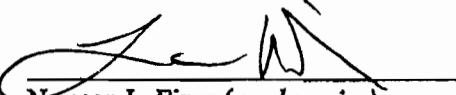
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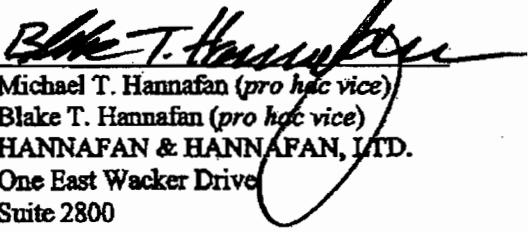
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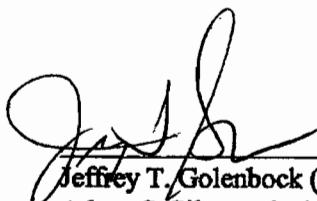
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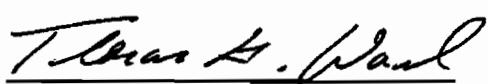
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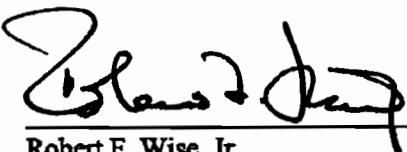
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